

2003 DRAFTING REQUEST

Bill

Received: 02/06/2004

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Randy

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Occupational Reg. - misc

Extra Copies: PJH

Submit via email: YES

Requester's email: Rep.Underheim@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Practice of physical therapist assistants

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|----------------------|-----------------|
| /? | | | | | | | State |
| /1 | mkunkel 02/06/2004 | kfollett 02/06/2004 | pgreensl 02/09/2004 | | Inorthro 02/09/2004 | | State |
| /2 | mkunkel 02/16/2004 | wjackson 02/16/2004 | pgreensl 02/16/2004 | | lemery 02/16/2004 | lemery 02/16/2004 | |

02/16/2004 01:34:06 PM
Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

At
Intro.

<END>

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| /1 | mkunkel 02/06/2004 | kfollett 02/06/2004 | pgreensl 02/09/2004 | <u>2/16</u> | Inorthro 02/09/2004 | | |

FE Sent For:

12 WJ 2/16

2/16
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PS
grc

02/06/2004 10:20:15 AM

Page 1

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Identical to LRB:

For: **Gregg Underheim (608) 266-2254**By/Representing: **Randy**This file may be shown to any legislator: **NO**Drafter: **mkunkel**

May Contact:

Addl. Drafters:

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| /? | mkunkel | 11/15 2/6 | 7/9 P 8 | 7/9 8000 | | | |

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<END>

Kunkel, Mark

03-4208/1

From: Ron Hermes [ron@tenuta-hermes.com]**Sent:** Monday, February 02, 2004 2:48 PM**To:** Mark Kunkel**Subject:** PT remedial language

Hi Mark-

Attached is a memo I delivering to Speaker Gard's office regarding the PT statutory fix we have previously discussed. The last page is the language that the WMS and WPTA have agreed to. The intent of the last sentence is to make it clear that the paragraph does not prevent a physician from delegating to a PT assistant.

We came to this agreement needing to try and prevent using the word "physician" in the paragraph and avoiding referencing the specific paragraph [448.03(2)(e)], that we believe gives physicians the authority to delegate to whomever they choose. The WMS does not agree that this language is the "be all" in delegation authority and wants to make sure our language does not interfere with their ability to delegate.

I hope that it makes sense to you. If you have any questions please call me (255-5522).

Ron

02/02/2004

TO: Speaker John Gard

FR: The Wisconsin Physical Therapy Association
Ron Hermes – Lobbyist

DATE: February 2, 2004

RE: remedial legislation to fix a problem with 2001 Act 70 (2001 AB 615)

It was brought to our attention by the Department of Regulation and Licensing General Counsel, that an unintended consequence occurred when we removed 448.56(6) from the bill. There is an urgency to fixing this problem before the end of session because the new Physical Therapy practice act changes created in 2001 Act 70 go into effect on April 1. It is the Department's opinion that the PTACB's authority to regulate assistants will be compromised if there is not remedial legislation to fix this oversight.

Current law, prior to assistant licensure, clearly states what an assistant does and directs the PTACB to promulgate rules of supervision. Current law:

448.52(3) *A physical therapist assistant assisting a physical therapist in practice under the general supervision of the physical therapist. In this subsection, "physical therapist assistant" means an individual who has graduated from a physical therapist assistant associate degree program approved by the American Physical Therapy Association. The affiliated credentialing board shall promulgate rules defining "general supervision" for purposes of this subsection.*

Current law was repealed and new similar language was created under AB 615, to reflect the assistant license requirement. Original AB 615 language:

448.56 (6) PHYSICAL THERAPIST ASSISTANTS. *A physical therapist assistant may assist in the practice of physical therapy only under the direct or general supervision of a physical therapist. The affiliated credentialing board shall promulgate rules defining "direct or general supervision" for purposes of this subsection.*

You may recall, that the WI Medical Society objected to the language because they believed it would interfere with a physician's ability to delegate to a physical therapist assistant. We disagreed, but in an effort to move the bill, we agreed to delete the following section. Unfortunately, this created two unintended consequences.

First, it eliminates the direct authority, under current law, of the Physical Therapy Affiliated Credentialing Board (PTACB) to promulgate rules regulating physical therapist assistants. Second, it eliminates any reference in statutes that describes what an assistant does.

Mark Kunkel, the LRB drafter of AB 615, agrees that removing this section in its entirety was an oversight.

I have spoken with Mark Grapentine at the WI Medical Society and the WMS also understands the unintended consequences created by repealing the section. The WMS and the WPTA have agreed on the following language as an acceptable compromise.

I hope that you will agree that this issue needs to be addressed now and will introduce the remedial legislation to fix the unintended consequences of 2001 Act 70.

Remedial language:

448.56(6) PHYSICAL THERAPIST ASSISTANTS. *Physical Therapist Assistants assist in the practice of physical therapy, under direct or general supervision, by providing therapeutic interventions after a diagnosis, prognosis and plan of therapeutic intervention have been developed by a physical therapist. The affiliated credentialing board shall promulgate rules defining direct or general supervision for the purposes of this subsection. Nothing in this paragraph interferes with delegation authority under chapter 448.*



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4208/1

MDK: [signature]

D - NOTE

By MONDAY
2/9

2003 BILL

Gen

- 1 AN ACT ...; relating to: the practice of physical therapist assistants and granting
2 rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law that is effective April 1, 2004, a person may not use the title "physical therapist assistant" unless he or she has a license as a physical therapist assistant that is granted by the physical therapists affiliated credentialing board (board). Current law does not specify what a licensed physical therapist assistant is allowed, or not allowed, to do.

This bill specifies that a person who is licensed as a physical therapist assistant may assist in the practice of physical therapy with respect to a patient only under the direct or general supervision of a physical therapist who is licensed by the board. The bill requires the board to promulgate rules that define what constitutes direct or general supervision. In addition, the physical therapist must have developed a diagnosis, prognosis, and plan of therapeutic intervention for the patient.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 448.56 (6) of the statutes is created to read:

BILL

SECTION 1

448.56 (6) PHYSICAL THERAPIST ASSISTANTS. A physical therapist assistant may assist in the practice of physical therapy with respect to a patient only under the direct or general supervision of a physical therapist and only after a physical therapist has developed a diagnosis, prognosis, and plan of therapeutic intervention for the patient. The affiliated credentialing board shall promulgate rules defining "direct or general supervision" for purposes of this subsection.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4208/1dn

MDK: 

Date

Rep. Underheim:

Note that I made the following changes to the suggested language:

1. The bill specifies that a licensed physical therapist assistant may assist in the practice of physical therapy ***with respect to a patient only*** under the direct or general supervision of a physical therapist ***and only after*** a physical therapist has developed a diagnosis, prognosis, and plan of therapeutic intervention ***for the patient***. I added the boldfaced and italicized words because I think they clarify your intent.
2. I eliminated one of the references to providing therapeutic interventions because I wasn't sure about its meaning. Also, I did not think that it was necessary.
3. I eliminated the following language: "Nothing in this paragraph interferes with delegation authority under chapter 448." I don't know to what delegation authority this language is intended to refer. Also, the bill does not interfere with any delegation authority. Therefore, it isn't necessary to say that the bill doesn't interfere with the delegation authority.

Finally, you might want to consider revising or amending the bill to allow the board to promulgate emergency rules that will go into effect a lot sooner than permanent rules.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4208/1dn
MDK:kjf:pg

February 9, 2004

Rep. Underheim:

Note that I made the following changes to the suggested language:

1. The bill specifies that a licensed physical therapist assistant may assist in the practice of physical therapy ***with respect to a patient only*** under the direct or general supervision of a physical therapist ***and only after*** a physical therapist has developed a diagnosis, prognosis, and plan of therapeutic intervention ***for the patient***. I added the boldfaced and italicized words because I think they clarify your intent.
2. I eliminated one of the references to providing therapeutic interventions because I wasn't sure about its meaning. Also, I did not think that it was necessary.
3. I eliminated the following language: "Nothing in this paragraph interferes with delegation authority under chapter 448." I don't know to what delegation authority this language is intended to refer. Also, the bill does not interfere with any delegation authority. Therefore, it isn't necessary to say that the bill doesn't interfere with the delegation authority.

Finally, you might want to consider revising or amending the bill to allow the board to promulgate emergency rules that will go into effect a lot sooner than permanent rules.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Ron Hermes [ron@tenuta-hermes.com]

Sent: Monday, February 16, 2004 9:51 AM

To: Mark Kunkel

Subject: final language

Hi Mark-

Both my client and the WMS are fine with the language you and I developed on Friday. I have attached for you convenience. Do you think you can get this to Roessler and Underheim by the end of the day?

Thanks.

Ron

02/16/2004

448.56 (6) Physical therapist assistants. A physical therapist assistant may assist a physical therapist in the practice of physical therapy if the physical therapist provides direct or general supervision of the physical therapist assistant. The affiliated credentialing board shall promulgate rules defining "direct or general supervision" for purposes of this subsection. Nothing in this subsection interferes with delegation authority under any other provision of this chapter.

Today

~~2003 BILL~~
2003 BILL

WJ
RM
has
been
passed

- 1 AN ACT ^{Regan} to create 448.56 (6) of the statutes; relating to: the practice of physical
2 therapist assistants and granting rule-making authority.

if the physical therapist provides

Analysis by the Legislative Reference Bureau

Under current law that is effective April 1, 2004, a person may not use the title "physical therapist assistant" unless he or she has a license as a physical therapist assistant that is granted by the Physical Therapists Affiliated Credentialing Board (board). Current law does not specify what a licensed physical therapist assistant is allowed, or not allowed, to do.

This bill specifies that a person who is licensed as a physical therapist assistant may assist in the practice of physical therapy ^{the} ~~with respect to a patient only under the direct or general supervision of a physical therapist who is licensed by the board.~~ The bill requires the board to promulgate rules that define what constitutes direct or general supervision. In addition, the ~~physical therapist must have developed a diagnosis, prognosis, and plan of therapeutic intervention for the patient.~~

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 448.56 (6) of the statutes is created to read:

Provisions do
bill provides that it does not interfere with certain
other delegations to physical therapist assistants such as
delegations by physicians

a physical therapist licensed by the board

BILL

a physical therapist

1 448.56 (6) PHYSICAL THERAPIST ASSISTANTS. A physical therapist assistant may
2 assist in the practice of physical therapy ~~with respect to a patient only under the~~
3 direct or general supervision of ~~a physical therapist~~ *the assistant* ~~and only after a physical~~
4 ~~therapist has developed a diagnosis, prognosis, and plan of therapeutic intervention~~
5 ~~for the patient.~~ The affiliated credentialing board shall promulgate rules defining
6 "direct or general supervision" for purposes of this subsection.
7

(END)

(No)

*Nothing in this subsection
interferes with delegation authority
under any other provision of this
Chapter*

*if the physical therapist
provides*

Emery, Lynn

From: Hough, Michelle
Sent: Monday, February 16, 2004 1:17 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4208/2 Topic: Practice of physical therapist assistants

It has been requested by <Hough, Michelle> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-4208/2 Topic: Practice of physical therapist assistants